

APPEAL NO. 010137

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 14, 2000. With regard to the issues before her, the hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits for the first quarter. The claimant filed a request for review to which the respondent (carrier) replied.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the decision of the hearing officer was mailed to the parties on December 27, 2000. The claimant states in her request for review that she received this decision on December 29, 2000. The Commission's cover letter under which the hearing officer's decision was mailed gives the address to which an appeal is to be mailed as being:

APPEALS CLERK, HEARINGS
TEXAS WORKERS' COMPENSATION COMMISSION
POST OFFICE BOX 40669
AUSTIN, TEXAS 78704-0012

Under Section 410.202(a), an appeal, to be timely, must be filed or mailed within 15 days of the date of receipt of the hearing officer's decision. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that an appeal is presumed to have been timely filed if it is mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be complied with in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994; Texas Workers' Compensation Commission Appeal No. 94111, decided March 10, 1994; Texas Workers' Compensation Commission Appeal No. 941225, decided October 24, 1994.

The last day for the claimant to timely file an appeal would have been Tuesday, January 16, 2001¹, and the last day for the appeal to have been timely received by the Commission was Thursday, January 18, 2001. The envelope containing the claimant's appeal is postmarked January 12, 2001. However, over the address portion of the

¹Since the 15th day was Saturday January 13, 2001, the time for filing is extended to the next business day, which would have been Tuesday, January 16, 2001, as January 15, 2001, was Martin Luther King, Jr., Day, a holiday.

envelope is a yellow label stating "NOTIFY SENDER OF NEW ADDRESS" and giving the Commission's correct current address. The claimant's appeal was received on January 22, 2001. The claimant's appeal is untimely, having been received by the Commission after the 20-day deadline (January 18, 2001) set by Rule 143.3(c). It appears that the address beneath the yellow label is the Commission's old former address (Post Office Box 17848).

The claimant's appeal being untimely, the decision and order of the hearing officer have become final. Section 410.169.

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge